



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/154637

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 09, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on February 13, 2014, at Kenosha, Wisconsin.

NOTE: The record was held open to allow the Petitioner to submit a copy of a check that was returned by the agency. It has been marked as Exhibit 21 and entered into the record.

The issue for determination is whether the Kenosha County Human Service Department Correctly ended Badger Care+ benefits for Petitioner, her spouse and her children.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Coordinator  
Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.

2. On November 4, 2013, the agency sent the Petitioner a notice indicating that she needed to provide proof of income from her husband's job at [REDACTED] by November 13, 2013. (Exhibit 10)
3. On November 18, 2013, the agency sent the Petitioner a notice indicating that healthcare benefits would be ending for the entire family, effective December 1, 2013, because she did not provide the requested proof of income. (Exhibit 11)
4. On December 10, 2013, the agency sent the Petitioner a Notice of Action needed, indicating that she needed to pay a premium of \$20.00 by December 19, 2013, in order for her children to have BadgerCare+ coverage for the month of December. The notice also warned that if this action was not taken, benefits could be denied, decreased or ended. (Exhibit 14)
5. On December 20, 2013, the agency sent the Petitioner indicating that neither the children, nor the adults in Petitioner's household were enrolled in BadgerCare+ as of December 1, 2013, because premiums had not been paid and because the adults were over the income limit. (Exhibit 15)
6. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals by January 9, 2013. (Exhibit 1)

### DISCUSSION

#### *Termination of Badger Care+ Benefits for the Petitioner and her Spouse*

It appears the agency terminated benefits for Petitioner and her spouse because they failed to provide the requested verification and because they did not pay the required premium.

#### 1. Verification

"Verification means to establish the accuracy of verbal or written statements made by, or about a group's circumstances. Case files or case comments must include documentation for any information required to be verified to determine eligibility or benefit levels." *BadgerCare+Handbook (BEH) §9.1* Proof of certain information is required to determine eligibility for BadgerCare+. *BEH §9.1* Items that must be verified are categorized as information that it is mandatory to verify and information that is questionable.

"Except for verification of access to employer sponsored health insurance, the member has primary responsibility for providing verification and resolving questionable information. However, the income maintenance worker must use all available data exchanges to verify information rather than requiring the applicant to provide it." *BEH §9.8*

BadgerCare+ benefits may be reduced when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. The agency needs the requested verification to determine current eligibility.

*BEH §9.11.4*

Current benefits may not be denied or reduced because a member does not verify some past circumstance not affecting current eligibility. *Id.*

According to the testimony of Ms. Mayer, Petitioner's household income became questionable because the state wage match reflect higher wages than were reported by the Petitioner. On November 4, 2013, the agency properly requested verification of income per *BEH §9.1*, above. However, the agency only gave the Petitioner nine-days to provide verification. This is not adequate notice of the verification required. *BEH §9.4* states, the member must be notified in writing of the specific verification required and allowed a minimum of ten days to provide it." Indeed, even in FoodShare cases, a benefit recipient has ten days in which to provide verification before his case may be closed. *FoodShare Wisconsin Handbook §1.2.1.2*

Because the agency did not provide Petitioner with adequate time to provide the requested verification, per *BEH §9.11.4*, her the failure to provide the verification cannot be used as a basis to terminate benefits for Petitioner and her spouse, effective December 1, 2013.

## 2. Failure to Pay Premium / Over Income Limit

"A member must receive a notice at least ten days prior to a negative action such as a termination of benefits..." *BEH §29.1*

The December 20, 2013, the agency sent Petitioner a notice terminating benefits for her and her spouse effective December 1, 2013, due to unpaid premiums and increased income. Because this notice was retroactive, it did not comply with the ten advance day notice required under *BEH §29.1*. As such, the agency did not correctly terminate the BagerCare+ benefits of Petitioner and her spouse.

### *Badger Care+ benefits for Petitioner's Children*

With regard to the children's BadgerCare + Benefits, the agency did not correctly terminate their benefits effective December 1, 2013, because there was no notice given until December 20, 2013. As discussed above, the agency must give ten-days prior notice of a negative action, pursuant to *BEH §29.1*

## **CONCLUSIONS OF LAW**

The agency did not correctly terminate BadgerCare+ benefits for the Petitioner and her spouse.

**THEREFORE, it is**

**ORDERED**

That the agency reinstate BadgeCare+ Benefits for Petitioner and her family effective December 1, 2013 and until such time as they are given proper notice of the termination of their benefits. The agency shall take all administrative steps necessary to complete these tasks within 10 days of this decision.

## **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as

"PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

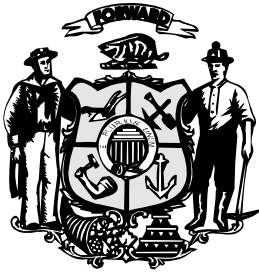
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 21st day of March, 2014.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 21, 2014.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability